

REMARKS

By this Amendment After Final, Applicants have amended claims 1, 22, 36, 54 , and 64-66 and added new claims 67-71. No new matter has been added. Claims 1-71 are pending on the merits.

As an initial matter, Applicant appreciates the Examiner's indication that claims 6, 9, 14, 19, 22, 41, 44, and 50-52 would be allowable if rewritten in independent form including all of the limitations of their corresponding independent claims and any intermediate, dependent claims. Final Office Action at 7.

I. Claim Rejection under 35 U.S.C. § 102(b) based on Baudin

In the final Office Action, claims 1, 3, 7, 12, 13, 18, 20, 23, 24, and 30-32 were rejected under 35 U.S.C. § 102(b) based on Baudin (U.S. Patent No. 6,068,396). Claim 1 is the only independent claim rejected based on Baudin, and Applicant has amended independent claim 1, thereby obviating that rejection.

Applicant's amended independent claim 1 recites a system including, among other things, a "safety member . . . , a seal closing [a] second opening. . . ; and a perforating member configured to pierce the seal closing the second opening, wherein the safety member is configured to press against the seal while the seal maintains closure of the second opening" The Baudin reference fails to disclose or suggest at least that subject matter recited in amended independent claim 1. Therefore, amended independent claim 1 is patentably distinguishable from Baudin.

In the final Office Action, the rejection statement asserts that Baudin discloses, among other things, first and second containers, "a safety member defined by

projection 36 . . . and a seal member at 20,21,37,” and that “[w]hen coupling [] members 25,32 of the containers are fully telescoped with respect to each other, the projection 36 will become abutted with portion 37 of the seal, and sufficient force created by the configuration between the projection and the seal will cause the seal to become opened.” Final Office Action at 2-3. The rejection statement further asserts “that at some position in the partially telescoping of the coupling members, the projection will press against the element 37 of the seal, but there will be insufficient force therebetween to open[] [sic] the seal.” Id. at 3.

As outlined in Applicant’s Request for Reconsideration filed on January 19, 2005, Applicant respectfully submits that Baudin’s projecting element 36 abutting against stem 37 does not disclose a safety member configured to press a seal at least because Baudin’s projecting element 36 presses against stem 37, which is not a seal. Furthermore, Baudin does not disclose or suggest “a perforating member configured to pierce a seal closing a second opening” at least because Baudin’s disclosed stopper 21 is ejected without being pierced. For at least these reasons, Baudin neither discloses nor suggests at least that subject matter recited in Applicant’s amended independent claim 1. Therefore, amended independent claim 1 is patentably distinguishable from Baudin.

II. Claim Rejection under 35 U.S.C. § 103(a) based on Spielman and Goncalves

In the final Office Action, claims 1-5, 7, 8, 10-13, 15-17, 21, 25-40, 42, 43, 45-49, and 53-66 were rejected under § 103(a) based on Spielman (U.S. Patent No. 3,941,270) in combination with Goncalves (U.S. Patent No. 5,209,565). Claims 1,

36, and 64-66 are the only independent claims rejected based on the Examiner's proposed, hypothetical combination of Spielman and Goncalves, and Applicant has amended each of those independent claims, thereby obviating the rejection under § 103(a) based on those references.

A. Amended Independent Claim 1

As outlined above, Applicant's amended independent claim 1 recites a system including, among other things, a "safety member . . . , a seal closing [a] second opening . . . ; and a perforating member configured to pierce the seal closing the second opening, wherein the safety member is configured to press against the seal while the seal maintains closure of the second opening" The Spielman and Goncalves references, taken individually or in combination, fail to disclose or suggest at least that subject matter recited in amended independent claim 1. Therefore, amended independent claim 1 is patentably distinguishable from those references.

Neither the Spielman reference nor the Goncalves reference discloses or suggests all of the subject matter recited in amended independent claim 1. For example, the Spielman reference does not disclose or suggest a perforating member configured to pierce a seal closing a second opening. Rather, the Spielman reference discloses that "[a] serious disadvantage of . . . prior art seal[s] is that the act of puncturing the seal results in a raised portion inside the container seal surrounding the position of the puncture." (Col. 1, lines 11-17.) The Spielman reference further discloses that "[r]ather than providing a sealing member which is punctured, such as the sealing members known in the prior art, the sealing member of this invention is

completely removed by the puncturing device resulting in no raised portion.” (Col. 1, lines 54-57.) As a result, the Spielman reference does not disclose or suggest a perforating member configured to pierce a seal closing an opening. In fact, Spielman teaches away from such subject matter. As a result, it would not have been obvious to modify the disclosure relating to the sealing member and puncturing device of Spielman based on Goncalves (or any other reference) to include a perforating device configured to pierce a seal closing an opening. Therefore, in addition to the reasons outlined in the Request for Reconsideration, the Spielman and Goncalves references, taken individually or in combination, fail to disclose or suggest all of the subject matter recited in Applicant’s amended independent claim 1.

B. Amended Independent Claim 36

Applicant’s amended independent claim 36 recites a system including, among other things, a “safety member . . . , a displaceable seal closing [a] second opening . . . ; and a perforating member configured to pierce the displaceable seal closing the second opening, wherein the safety member is configured to prevent engagement between [a] first coupler and [a] second coupler prior to displacement of the seal when the safety member is pressed against the seal” For reasons at least similar to those outlined above with respect to amended independent claim 1, the Spielman and Goncalves references, taken individually or in combination, fail to disclose or suggest at least that subject matter recited in amended independent claim 36. Therefore, amended independent claim 36 is patentably distinguishable from those references.

C. Amended Independent Claim 64

Applicant's amended independent claim 64 recites a system including, among other things, a "safety member . . . , a seal closing [a] second opening . . . ; and a perforating member configured to pierce the seal closing the second opening, wherein the safety member is configured to press against the seal while the seal maintains closure of the second opening" For reasons at least similar to those outlined above with respect to amended independent claim 1, the Spielman and Goncalves references, taken individually or in combination, fail to disclose or suggest at least that subject matter recited in amended independent claim 64. Therefore, amended independent claim 64 is patentably distinguishable from those references.

D. Amended Independent Claim 65

Applicant's amended independent claim 65 recites a system including, among other things, a "safety member . . . , a seal closing [a] second opening . . . ; and a perforating member configured to pierce the seal closing the second opening, wherein the safety member is configured to press against the seal closing the second opening" For reasons at least similar to those outlined above with respect to amended independent claim 1, the Spielman and Goncalves references, taken individually or in combination, fail to disclose or suggest at least that subject matter recited in independent claim 65. Therefore, amended independent claim 65 is patentably distinguishable from those references.

E. Amended Independent Claim 66

Applicant's amended independent claim 66 recites a system including, among other things, a "safety member . . . , a seal closing [a] second opening . . . ; and a perforating member configured to pierce the seal closing the second opening, . . . wherein the safety member is configured to press against the seal while the seal maintains closure of the second opening" For reasons at least similar to those outlined above with respect to amended independent claim 1, the Spielman and Goncalves references, taken individually or in combination, fail to disclose or suggest at least that subject matter recited in amended independent claim 66. Therefore, amended independent claim 66 is patentably distinguishable from those references.

III. Conclusion

For at least the reasons set forth above, amended independent claims 1, 36, and 64-66 should be allowable. Dependent claims 2-35, 37-63, and 67-71 depend from one of independent claims 1, 36, and 64-66. Consequently, those dependent claims should be allowable for at least the same reasons their corresponding independent claims are allowable.

Therefore, Applicant respectfully requests the reconsideration of this application, the withdrawal of the outstanding claim rejections, and the allowance of claims 1-71.

If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicant's undersigned attorney at 571-203-2739.

Applicant respectfully submits that the final Office Action contains numerous assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant declines to automatically subscribe to those assertions.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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